

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

ARCHIE RACHEL,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-14-655-R
)	
JEFFERY TROUTT, et al.,)	
)	
Defendants.)	

ORDER

Before the Court is the Report and Recommendation of United States Magistrate Judge Shon T. Erwin entered August 25, 2014. Doc. No. 13. Plaintiff has filed an Objection to the Magistrate Judge’s conclusion in the Report and Recommendation. Doc. No. 14. Pursuant to 28 U.S.C. § 636(b)(1)(B), the Court reviews the Report and Recommendation *de novo* in light of Plaintiff’s objection.

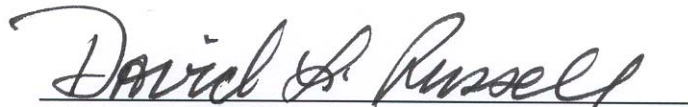
Plaintiff, a state prisoner, brings an action under 42 U.S.C. § 1983. He objects to the Magistrate Judge’s conclusion that all official capacity claims against Defendants should be dismissed pursuant to the Eleventh Amendment. Plaintiff concedes that he may not sue prison officials in their official capacity for monetary relief, but argues that they are not immune from suit for declaratory or injunctive relief.

In his complaint, Plaintiff seeks a declaratory judgment that Defendants violated his rights, as well as injunctive relief. Doc. No. 1, at 12. A retrospective declaratory judgment like the one Plaintiff seeks is barred by the Eleventh Amendment. *Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 146 (1993) (“[T]he [Ex

parte Young] exception ... does not permit judgments against state officers declaring that they violated federal law in the past.” (citation omitted)). But Plaintiff’s request for injunctive relief may not be barred by the Eleventh Amendment if he “alleges an ongoing violation of federal law and seeks relief properly characterized as prospective.” *Muscogee (Creek) Nation v. Pruitt*, 669 F.3d 1159, 1167 (10th Cir. 2012) (quoting *Verizon Maryland, Inc. v. Pub. Serv. Comm’n*, 535 U.S. 635, 645 (2002)).

Accordingly, the Court adopts the Report and Recommendation of the Magistrate Judge in part and rejects it in part. The Court dismisses Plaintiff’s claims for monetary and declaratory relief against Defendants Dowling, Troutt, Frech, and Harris in their official capacity without prejudice. Further, the Court re-refers this matter to Magistrate Judge Erwin with respect to Plaintiff’s claims for injunctive relief against all Defendants for further consideration consistent with this Order.

IT IS SO ORDERED this 2nd day of October, 2014.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE